



State of California—Health and Human Services Agency  
Department of Health Care Services



December 29, 2022

*THIS LETTER SENT VIA EMAIL*

Mr. James G. Scott, Director  
Division of Program Operations  
Medicaid and CHIP Operations Group  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Suite 0300  
Kansas City, MO 64106-2898

STATE PLAN AMENDMENT 22-0073: PROPOSAL TO MAINTAIN CURRENT FEE-FOR-SERVICE MEDI-CAL RATES FOR DURABLE MEDICAL EQUIPMENT CONSIDERED TO BE OXYGEN AND RESPIRATORY EQUIPMENT

Dear Mr. Scott:

The Department of Health Care Services (DHCS) is submitting State Plan Amendment (SPA) 22-0073 for your review and approval. This SPA proposes to maintain current Fee-for-Service (FFS) Medi-Cal rates for Durable Medical Equipment (DME), considered to be oxygen and respiratory equipment. The effective date for this SPA is January 1, 2023.

In accordance with Welfare and Institutions Code section 14105.48(f)(2) and the Budget Act of 2022, Assembly Bill (AB) 178 (Chapter 45, Statutes of 2022), DHCS is authorized to reimburse DME considered to be oxygen and respiratory equipment at no more than 100 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or similar item or service. Accordingly, DHCS will maintain the current DME oxygen and respiratory rates that are currently effective on the Medi-Cal fee schedule and approved in the State Plan as of December 31, 2022. The effective date of the proposed SPA is January 1, 2023.

A Notice of Public Interest for SPA 22-0073 regarding the maintenance of current rates for DME oxygen and respiratory equipment was published on December 29, 2022, on the DHCS webpage. On December 16, 2022, CMS informed DHCS that a tribal notice is not required for this SPA.

The following SPA documents are enclosed for your review and approval:

- CMS 179 Form

Mr. James G. Scott  
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- Budget Impact Explanation
- Standard Medicaid Funding Questions
- Attachment 4.19-B, pages 3c and 3c.1 – Redline version
- Attachment 4.19-B, pages 3c and 3c.1– Clean version

If you have any questions or need additional information, please contact Mr. Alek Klimek, by phone at (916) 650-0171, or by email at [Alek.Klimek@dhcs.ca.gov](mailto:Alek.Klimek@dhcs.ca.gov).

Sincerely,



Jacey Cooper  
State Medicaid Director  
Chief Deputy Director  
Health Care Programs

Enclosures

cc: Lindy Harrington  
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**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL  
SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY \_\_\_\_\_ \$ \_\_\_\_\_

b. FFY \_\_\_\_\_ \$ \_\_\_\_\_

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT  
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

Please note: The Governor's Office does not wish to review  
the State Plan Amendment.

11. SIGNATURE OF STATE AGENCY OFFICIAL

15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED  
December 29, 2022

**FOR CMS USE ONLY**

16. DATE RECEIVED

17. DATE APPROVED

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

charges made to the general public, or the net purchase price of the item, (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)

- (1) The actual acquisition cost plus a markup to be established by the State Agency based on rate studies and periodic review to assure adequate reimbursement and access to care. (Refer to Reimbursement Methodology Table at page 3e.)
  - (2) The manufacturer's suggested retail purchase price, documented by a printed catalog or a hard copy of an electronic catalog page published on a date defined by Welfare and Institutions Code section 14105.48, reduced by a percentage discount of 20 percent, or by 15 percent if the provider employs or contracts with a qualified rehabilitation professional. (Refer to Reimbursement Methodology at page 3f.)
- (e) Reimbursement for the purchase of all durable medical equipment supplies and accessories without a specified maximum allowable rate (either non-covered by Medicare or Medicare did not establish a reimbursement rate), and which are not described in subparagraphs (a)-(d) above, shall be the lesser of the following;
- (1) The amount billed in accordance with California Code of Regulations, Title 22, section 51008.1 entitled ("Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)
  - (2) The acquisition cost for the item, plus a 23 percent markup. (Refer to Reimbursement Methodology Table at page 3f.)
- (f) Reimbursement for DME considered to be Oxygen and Respiratory equipment, with a specified maximum allowable rate established by Medicare, shall be the lowest of the following:

## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

- (1) The amount billed in accordance with California Code of Regulations, Title 22, Section 51008.1 entitled "Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records), plus no more than 100 percent mark-up.
- (2) The reimbursement rates in effect, as follows:
  - i. Effective for dates of service on or after January 1, 2023, reimbursement rates will be established based upon the rates in effect and approved in the State Plan as of December 31, 2022.
  - ii. Effective for dates of service on or after January 1, 2024, the reimbursement rates will be the rates in effect on the Medi-Cal Fee schedule for the current calendar year, which shall be the lowest of the following:
    1. The rate in effect on the Medi-Cal Fee Schedule as of December 31 of the preceding calendar year; or
    2. 100 percent of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies in the current calendar year.
2. Except as otherwise noted in the State Plan, state-developed fee schedule rates established in accordance with Attachment 4.19-B, beginning on page 3a, are the same for both governmental and private providers of DME and the fee schedule.
3. Except as otherwise noted in the State Plan, state-developed fee schedules are the same for both governmental and private providers of prosthetic and orthotic appliances as described in State Plan Attachment 3.1-A, paragraph 12c, entitled "Prosthetic and Orthotic Appliances."